

MALEEHA AHMAD, et al v. CITY OF ST. LOUIS
Deposition of JAMES GOLDEN, JR. taken on 02/08/2019

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

MALEEHA AHMAD, et al,)	
)	
Plaintiffs,)	
)	
vs.)	No. 4:17-CV-2455 CDP
)	
CITY OF ST. LOUIS,)	
)	
Defendant.)	

Skype Deposition of JAMES GOLDEN, JR.
taken on behalf of the Defendant
February 8, 2019

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Questions By:

Page:

MR. DIERKER

5

Reporter: Sara Alice Masuga, CSR, CCR
IL CSR No. 084-002993 MO CCR No. 1012

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Exhibit K

MALEEHA AHMAD, et al v. CITY OF ST. LOUIS
Deposition of JAMES GOLDEN, JR. taken on 02/08/2019

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF MISSOURI

3 MALEEHA AHMAD, et al,)
4 Plaintiffs,)
5 vs.) No. 4:17-CV-2455 CDP
6 CITY OF ST. LOUIS,)
7 Defendant.)

8
9 APPEARANCES:

10 On Behalf of the Plaintiff:

11
12 ACLU
13 By Omri E. Praiss, Esq.
14 906 Olive Street
15 Suite 1130
16 St. Louis, MO 63101

17 On Behalf of the Defendant:

18 City Counselor's Office
19 By Robert Dierker, Esq.
20 Meg Bruyns, Esq.
21 Brandon Laird, Esq.
22 Amy Raimondo, Esq.
23 1200 Market Street
24 City Hall Room 314
25 St. Louis, MO 63103

Also Present: Ms. Nicole Strombom
Mr. Naif Albattal

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1 IT IS STIPULATED AND AGREED by and between
2 counsel for Plaintiffs and counsel for Defendant that the
3 deposition of JAMES GOLDEN, JR. may be taken via Skype
4 pursuant to the Federal Rules of Civil Procedure, by and
5 on behalf of the Defendant on February 8, 2019, at the
6 offices of the ACLU, 906 Olive Street, St. Louis,
7 Missouri, before me, Sara Alice Masuga, Certified Court
8 Reporter and Certified Shorthand Reporter; that the
9 issuance of notice is waived and that this deposition may
10 be taken with the same force and effect as if all Federal
11 Rules had been complied with.

12 IT IS FURTHER STIPULATED AND AGREED that the
13 signature of the deponent is reserved.
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EXHIBIT INDEX

Exhibit:

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Defendant's Golden Deposition Exhibit A.....6
("Police Pepper Spray Routs Klan Rally Crowd,"
Chicago Tribune Article 9/28/97)

Defendant's Golden Deposition Exhibit B.....7
(Declaration of Chief James B. Golden, Jr. (Retired)
dated 1/25/19, C.V., Declaration of James B. Golden,
Jr. dated 10/22/17, Expert Report of Chief James B.
Golden, Jr. (Retired))

Defendant's Golden Exhibit C.....29
(City of St. Louis Special Event Consolidated
Application)

(Exhibits attached.)

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1 JAMES GOLDEN, JR. produced via Skype, sworn, and
2 examined as a witness on behalf of the Defendant
3 testified as follows commencing at 9:06 a.m.:

4
5 E X A M I N A T I O N

6 BY MR. DIERKER:

7
8 Q. Chief, I don't know if you can see me. I'm
9 Bob Dierker of the City Counselor's Office. You don't
10 mind if I call you Chief, do you?

11 A. No, that's fine, thank you. Jim, Chief,
12 whatever you choose, it's okay.

13 Q. All right. I've got several other attorneys
14 here with me, but they're not going to be doing any of
15 the talking. I will be doing all the talking. If you
16 can't hear me for sure, let me know, okay?

17 A. Yeah, I can hear you. I just can't see you.

18 Q. Okay.

19 MS. RAIMONDO: Do you watch to switch with me
20 so maybe he can see you?

21 MR. DIERKER: Well, I think it's better for me
22 to be closer, so...

23 (Questions by Mr. Dierker)

24 Q. I'll -- I'll lean in at some point and wave to
25 you, Chief, so...

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1 A. Okay, that's fine.

2 Q. So, Chief, what I'd like to do, first of all,
3 there was a reference in your materials to the KKK rally
4 in Saginaw, Michigan and I wanted to show you what I've
5 marked as Deposition Exhibit A, which is an internet copy
6 of a Chicago Tribune report September, 1997 and I'm not
7 sure if -- I'm not sure the best way to get you to see
8 that.

9 A. Yes, I can see it.

10 Q. Okay. And -- And I don't expect you
11 necessarily to be able to identify that. I just wanted
12 to ask you, the report indicates that Pepper Spray Routes
13 Klan Rally Crowd and I was curious if you are familiar
14 with any incident involving pepper spray at Saginaw with
15 the KKK.

16 A. No, I'm not. In fact, the two rallies that
17 were held there were in -- in '96, July and August of
18 1996 in Saginaw.

19 Q. So, if in September of 1997, would that have
20 been while you were still chief up there?

21 A. I was chief, yes, in '97. I don't recall a
22 Klan rally, however, at that time.

23 Q. Okay.

24 MR. PRAISS: Just for the record, this is from
25 the Chicago Tribune and I don't see any reference to

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1 Saginaw, Michigan, or am I missing something?

2 MR. DIERKER: (Pointing.)

3 MR. PRAISS: Thank you.

4 MR. DIERKER: Okay.

5 (Questions by Mr. Dierker)

6 Q. Okay, Chief, I'd like to get just a couple
7 other preliminary matters out of the way. I have marked
8 for purposes of the deposition as Exhibit B your Dec- --
9 Declaration and the materials that you provided through
10 the Plaintiffs' lawyers to us. And does -- does that
11 look familiar to you as --

12 A. Yes.

13 Q. -- as best you can see through Skype?

14 A. Yes.

15 Q. Okay. Off the top, do you have anything that
16 specifically you want to amend or alter with regard to
17 the report and materials that you submitted through --
18 through the Plaintiffs' lawyers?

19 A. No.

20 Q. Okay. Are you aware of an entity known as the
21 Commission for the Accreditation of Law Enforcement
22 Agencies, C-A-L-E-A?

23 A. Yes.

24 Q. Okay. Was the Saginaw Police Department
25 accredited by them?

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1 A. We had begun the process, but it was never
2 completed, at least not on my watch, but we initiated
3 that process when I was chief.

4 Q. Okay. So, you're -- you're generally familiar
5 with that organization and its accrediting process?

6 A. Yes --

7 Q. Okay.

8 A. -- CALEA as it's known.

9 Q. And is that a recognized accreditation process
10 as far as your professional opinion goes?

11 A. Yes.

12 Q. And are you aware that the City of St. Louis
13 Police Department is accredited by that entity?

14 A. I was not aware, no.

15 Q. Okay. Have you studied the CALEA standards
16 regarding crowd control response?

17 A. I have not, not CALEA, no.

18 Q. Okay. When was the last time you were in a
19 command position with regard to a crowd control
20 situation?

21 A. That would have been -- That would have been
22 Saginaw. And in terms of a significant crowd management
23 situation, I guess it would have been Saginaw.

24 Q. Did you ever have any --

25 A. 1996.

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1 Q. While you were with the Philadelphia Police
2 Department, did you have any occasion to be in crowd
3 control situations?

4 A. Yes, a few times.

5 Q. And did you personally ever use -- I'm going
6 to talk about pepper spray. Sometimes I'll talk about
7 mace. I mean, to me they're interchangeable. Is that --
8 Is that okay to use those terms interchangeably?

9 A. Yes.

10 Q. So, did you ever have occasion to deploy mace
11 or -- yourself in any crowd control situation?

12 A. No.

13 Q. Did you observe it used by anybody under your
14 command?

15 A. No.

16 Q. Okay. With regard to the International
17 Association of Chiefs of Police, do you regard their
18 statements or their papers, their work to be
19 authoritative within your field or within the field of
20 policing crowd contro- -- and crowd control situations?

21 A. Yes.

22 Q. And, so, they -- they would generally be
23 reliable, the standards of the IACP?

24 A. Yes.

25 Q. And I believe, correct me if I'm wrong, but I

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1 believe various passages in your report, Exhibit B, track
2 very closely to some of the statements that are made in
3 the IACP paper on Crowd Management and Control, October
4 of 2014; is that a fair statement?

5 A. I'd have to check that, but, I mean, yes, I
6 know I referenced something from IACP, but I don't know
7 the specific date. I'd have to look, look at that.

8 Q. Okay. In your opinion, Chief, who is better
9 equipped to deal with a crowd control situation, the
10 commanders on the scene or a judge several months later?

11 MR. PRAISS: Object to the form of the
12 question.

13 Q. You can go ahead and answer. Counsel didn't
14 like the way I put the question. If you understand it,
15 you can answer.

16 A. Would you repeat it, please?

17 Q. In your opinion, who is more capable of
18 assessing crowd control situations, the commanders --
19 police commanders on the scene or a judge several months
20 later?

21 MR. PRAISS: Same objection.

22 A. If the commanders on the scene, the police
23 commanders, are well-trained and skilled in that area, I
24 would say the police commander.

25 Q. In your opinion, can anybody anticipate in

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1 advance how a spontaneous public protest will proceed?

2 A. In many situations, I would say yes.

3 Q. Do -- In your opinion, do spontaneous or
4 extemporaneous protests present special problems for law
5 enforcement?

6 A. I would say yeah, depending on the
7 circumstances, you're talking about something that's
8 unexpected or unanticipated as spontaneous, yes.

9 Q. And in the course of your career, are you
10 familiar with protests that were conducted pursuant to
11 permit processes in the local government?

12 A. Yes.

13 Q. And were you familiar with situations where no
14 permit was applied for and -- but a protest proceeded?

15 A. I can't recall offhand those situations, no.

16 Q. What was -- The situation in Saginaw that you
17 referred to involving the KKK, were permits involved in
18 that situation?

19 A. Yes, I believe they were.

20 Q. Okay. In your opinion, are there special
21 problems for law enforcement when the police are the
22 target of the protest?

23 A. I'm not sure what you mean by "special
24 problems."

25 Q. Well, I'm just asking for your opinion as to

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1 whether you think there are any.

2 A. I think most crowd management situations
3 involving police and protestors present challenges.

4 Q. The counsel for the Plaintiffs sent me a list
5 of materials that you reviewed, which I think involved --
6 included the transcripts of the preliminary injunction
7 hearing in this case and video materials that were
8 supplied both by the City Police Department and by the
9 Plaintiffs. Am I safe in assuming that you have not
10 reviewed any materials that have not been disclosed to us
11 by Plaintiffs' counsel as far as you know?

12 A. That's correct as far as I know.

13 (At this point, Mr. Albattal arrived at the
14 deposition.)

15 Q. Okay. Chief, I've got a copy of the IACP
16 paper on Crowd Management and Control, October of 2014,
17 which I believe is included in or cited in your
18 materials, so I'm not marking that as an exhibit, but I'd
19 just like to read a couple of statements in that paper to
20 see if you agree with those propositions.

21 A. Okay.

22 Q. And if you happen to have it with you, that's
23 fine. I'm reading from Page 2. Quote, "A civil
24 disturbance is an unlawful assembly and is normally
25 defined in state and local law. Normally, it is a

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1 gathering that constitutes a breach of the peace or any
2 assembly of persons where there is a threat of collective
3 violence, destruction of property, or other unlawful
4 acts. Civil disturbances are often, but not always,
5 spontaneous occurrences that require the emergency
6 mobilization of law enforcement officers and related
7 emergency services. Law enforcement employs crowd
8 control techniques and tactics to address unlawful public
9 assemblies to include a show of force, crowd containment,
10 dispersal equipment and strategies, and preparation for
11 possible multiple arrests." Would you agree that that
12 capsulizes a civil disturbance situation?

13 A. I think generally, yes.

14 Q. And I've got another excerpt I'd like to read
15 to you from Page 7. Quote, "Law enforcement agencies may
16 employ several options when a crowd does not heed their
17 warnings. These include but are not limited to any one
18 or any combination of the following: Display of forceful
19 presence, which can include police lines combined with
20 motorcycles, law enforcement vehicles, and mobile field
21 forces; crowd encirclement; multiple simultaneous
22 arrests; use of aerosol crowd control chemical agents;
23 law enforcement formations and use of batons for forcing
24 crowd movement." Would you agree that that describes
25 options that are available in dealing with a crowd that

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1 is not heeding warnings?

2 MR. PRAISS: Object to the form --

3 A. I believe --

4 MR. PRAISS: -- of the -- Give me one second,
5 Jim.

6 THE WITNESS: Yes.

7 MR. PRAISS: Object to the form of the
8 question. Vague and overbroad.

9 Q. You may answer.

10 A. I believe they are, given the specific
11 circumstances of the event, yes.

12 Q. And again reading from Page 7, "There are" --
13 Quote, "There are instances in which law enforcement
14 agencies have little or no warning to prepare for
15 demonstrations or civil disturbances. Sporting events
16 and rock concerts are among those situations that
17 sometimes spawn uncontrolled crowds and illegal
18 gatherings. Demonstrations or large gatherings of any
19 kind that escalate into civil disturbances are governed
20 by the policies and regulations concerning crowd
21 management, control, and dispersal identified here with
22 respect to civil disturbances. The first officer to
23 arrive on the scene of a spontaneous demonstration or
24 civil disturbance has a number of responsibilities, to
25 include the following: Observe the situation from a safe

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1 distance to determine if the gathering is currently or
2 potentially violent. Notify" communi- -- "the
3 communications center of the nature and seriousness of
4 the disturbance, particularly the availability of
5 improvised or deadly weapons; crowd location and
6 estimated number of participants; current activities
7 (such as blocking traffic); direction of movement; and
8 ingress and egress routes for emergency vehicles.
9 Request the assistance of a supervisor and any necessary
10 backup. Instruct the individuals to disperse if
11 approaching the crowd does not present unnecessary risk.
12 Attempt to identify crowd leaders and (sic) potential
13 agitators and/or anyone engaged in criminal acts." Would
14 you say that's a fair summary of what the first responder
15 could or should do in a crowd control situation?

16 MR. PRAISS: I'm going to again object to the
17 form of the question. It's overbroad and it's
18 vague, considering how long the section that you
19 just quoted. Go ahead.

20 Q. You may answer, Chief, if you understand the
21 question.

22 A. Yes, but a single officer, if you're talking
23 about an individual officer in a fairly large
24 demonstration, I certainly would hope that officer would
25 summon assistance and support before taking other actions

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1 that you mentioned in that excerpt.

2 Q. Now, Chief, I understand you -- you reviewed
3 the extensive materials with regard to the events in
4 September 15 through September 17 of 2017 in the City of
5 St. Louis. Am I safe in assuming that?

6 A. Yes.

7 Q. To what extent are you familiar with the
8 geography in the City of St. Louis?

9 A. Not very. It's been a while since I visited
10 St. Louis, so I couldn't speak to, you know, specific
11 layout of the City.

12 Q. With regard to the events on September 15, I
13 will refer to Tucker and Clark, which is the intersection
14 located near the former St. Louis Police Headquarters.
15 Are you aware of that -- the geography of that
16 intersection, roughly?

17 A. Well, just based on video recordings that I
18 reviewed.

19 Q. Okay. And were you aware that the protests
20 regarding the verdict in the Stockley case commenced
21 earlier in the day at the intersection of Tucker and
22 Market Street nearest to the courthouse?

23 A. That's my understanding, again, from the
24 review of documents and the video recordings.

25 Q. Okay. Well, assuming that's the case, would

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1 it have been sound police practice to have a
2 riot-equipped unit staged several blocks away near the
3 old Police Headquarters?

4 A. I'm not sure I understand that question as --
5 as relates to the previous comment. Would you -- Would
6 you state it again, please?

7 Q. That's fine. I'm -- All the lawyers in this
8 room can attest that I'm grossly out of practice at
9 taking depositions, so. I would ask you to assume that
10 the -- what I'll call the Stockley protests began at the
11 intersection of Tucker and Market in the City of
12 St. Louis earlier in the day of September 15 and that
13 Tucker and Market is approximately two blocks away from
14 Tucker and Clark. So, can we -- are you with me so far?

15 A. Yes.

16 Q. And in -- in your opinion, given that the
17 protests began to materialize two blocks away from Tucker
18 and Clark, would it have been sound practice to have the
19 riot-equipped units staged at Tucker and Clark?

20 A. Well, the only way I can answer that is to the
21 extent that there was advanced knowledge or information,
22 the -- the Police Department would have been able to
23 position officers, tactical officers, and other resources
24 where they were most needed.

25 Q. Well, I understood in your -- your report, you

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1 opined that the Police Department -- that the best
2 practice is to avoid having riot-equipped police visible
3 immediately when a protest starts to materialize. Am I
4 misstating your view?

5 A. No, that's correct.

6 Q. Okay. Let me -- And forgive me, but I may
7 jump around a little bit like the protest did that
8 weekend. In your review in preparing and formulating
9 your opinions, did you review materials with regard to
10 any prior incidents of protests related to police conduct
11 in the City of St. Louis? And by "prior incidents," I
12 mean prior to 2017.

13 A. I recall there were references to such
14 incidents, but I did not directly review those matters.

15 Q. Okay, so -- so then to the extent that you
16 made -- formulated any opinions, to the extent you had
17 information about any prior incidents prior to 2017 in
18 the City of St. Louis, you would have been depending
19 mainly on the Plaintiffs' preliminary injunction
20 testimony; is that fair?

21 A. Yes, that's right.

22 (At this point, Ms. Bruyns left the
23 conference room.)

24 Q. Okay. So, apart from that testimony, you
25 would not have any -- you did not conduct any extensive

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1 review of any incidents involving Grand Avenue and
2 Highway 44 in March of 2012; is that right?

3 A. That's right.

4 Q. And likewise, any incident in October of 2014
5 at Vandeventer and Manchester Streets or Grand and
6 Arsenal Streets in the City of St. Louis?

7 A. That's right.

8 Q. And similarly with regard to August of 2015 at
9 Page and Walton in the City of St. Louis, you would not
10 have reviewed any materials specific to that?

11 A. I did not.

12 Q. Okay. You indicated that you had testified --
13 you were deposed in a case in Kansas City, in Federal
14 Court in Kansas City; is that correct?

15 A. Yes.

16 Q. And are Plaintiffs' counsel in this case the
17 same counsel as in Kansas City?

18 A. Yes.

19 Q. And just briefly, what -- what's that lawsuit
20 about, as far as you know?

21 A. It -- It involved a tender age grade school
22 student being -- being handcuffed by a security officer.

23 Q. Okay. And if I understand your resume
24 correctly, your current practice, if I may use that term,
25 focuses on policing and youth; is that -- am I correct in

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1 that?

2 A. Juvenile justice training for law enforcement
3 and school districts, yes.

4 Q. Okay. Are you familiar with an area of
5 Philadelphia called God's Pocket?

6 A. No, I -- I can't say that I am, no.

7 Q. When I read your resume, it just brought to
8 the mind a movie that I had seen about Philadelphia and
9 one of my former colleagues was from Philadelphia,
10 Judge Garvey. You don't happen to know him, do you?

11 A. It's been a while. I've been out of Philly
12 for a while, but, I mean, I'm still relatively close to
13 the area, but Judge Garvey, I can't say that I'm familiar
14 with -- with that person.

15 Q. Okay. Well, the reason I ask is that was
16 going to lead into a question about do certain areas
17 in -- within a metropolitan area call for different
18 attention or tactics by the police.

19 A. In a general community policing strategy, yes.

20 Q. Have you ever been hit by a full water bottle?

21 A. No.

22 Q. Have you, yourself, ever been the defendant in
23 a civil rights action based on your policing activities?

24 A. No. There have been, you know, administrative
25 actions, but, no, I --

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1 Q. No --

2 A. -- don't think.

3 Q. -- I'm -- I'm referring to --

4 A. Right.

5 Q. -- lawsuits, not administrative action.

6 A. (Nodding.)

7 Q. Are you aware of any officers under your
8 command who are defendants in civil rights suits?

9 MR. PRAISS: Object to the form of the
10 question. Overbroad.

11 Q. You may answer.

12 A. I'd really have to search my memory for that,
13 but offhand, I just can't point to anything specific.

14 Q. Okay. In your opinion, can individual
15 officers violate police department policy without the
16 presence of a custom?

17 MR. PRAISS: Object to the form of the
18 question to the extent it calls for legal
19 conclusion.

20 Q. Well, let -- I'll -- I'll rephrase the
21 question, Chief. In your opinion, you -- and I'm
22 paraphrasing -- you -- you express the view that the
23 instances of use of mace that you observed in the videos
24 were indicative of a custom of improperly deploying mace.
25 Did I paraphrase that opinion more or less accurately?

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1 A. Yes, it appeared that way to me.

2 Q. And what are you -- when you refer to a
3 custom, as a -- as a professional and expert in policing,
4 what -- what do you mean by a custom?

5 A. Well, in this instance from -- from what I
6 saw, there were other techniques, in my opinion, that
7 could have been employed short of -- of the use of
8 chemical munitions. It just seemed that that was,
9 instead of a last resort, it was something that was done
10 rather hastily.

11 Q. Well, let me repeat my question. As far as
12 your concept of a custom within police operations is
13 concerned, would it be your view that an individual
14 police officer can violate police department policies and
15 regulations without thereby acting pursuant to a custom
16 within the police department?

17 A. They cannot violate policy pursuant to a
18 custom or practice that essentially flies in the face of
19 that policy, if that's what you're asking.

20 Q. I think you answered the question better than
21 I asked it, Chief.

22 Based on your review of the materials that
23 have been given to you in this case, what is your
24 understanding of when and where the St. Louis Police
25 deployed teargas?

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1 A. When and where in these circumstances or
2 generally? I'm sorry, I might have missed --

3 Q. Well --

4 A. -- the question.

5 Q. -- I was referring specifically to the events
6 of September 15 through September 17 of 2017.

7 A. Okay.

8 Q. What is your understanding of when on those
9 dates -- Or maybe I should rephrase it. What is your
10 understanding as to which incidents involved the
11 deployment of teargas?

12 A. The most -- The most vivid occasion was on
13 Sunday evening, the 17th, and I believe to some extent on
14 the afternoon of the 15th.

15 Q. So, it was your observation that teargas was
16 deployed on the evening of September 17 at the Tucker and
17 Washington incident?

18 A. Yes, I think just prior to the mass arrests.

19 MR. PRAISS: Just for the record, when you're
20 using the phrase "teargas," is that distinguishable
21 from pepper spray or mace?

22 MR. DIERKER: Okay, well, thank you, I --

23 MR. PRAISS: Just so we're all on the same
24 page because it's not clear to me.

25 MR. DIERKER: Well, I want it to be clear.

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1 (Questions by Mr. Dierker)

2 Q. So, Chief, I -- I started using the term
3 "teargas." Can we agree that teargas is a different
4 munition than pepper spray or mace?

5 A. Yes.

6 Q. And, so, when I say "teargas," you understand
7 me to be referring to a substance that is a different
8 form or different chemical used in crowd control?

9 A. Different from pepper spray?

10 Q. Right.

11 A. Yes.

12 Q. So, is it your understanding that teargas was
13 deployed on the evening of September 17?

14 A. Yeah, I'm sorry, I -- I thought at the outset
15 we talked about using terms interchangeably, but maybe it
16 wasn't teargas, so --

17 Q. No, I -- I -- I was using pepper spray and
18 mace interchangeably.

19 A. Right, right, okay. Yeah --

20 Q. I --

21 A. -- and --

22 Q. I ident- --

23 A. -- I understand so.

24 Q. I'm sorry.

25 A. Yeah, so, specifically you're asking about

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1 when I thought the police deployed teargas over the three
2 days --

3 Q. Right.

4 A. -- is that right?

5 Q. Right.

6 A. Okay. And, frankly, I'd have to go back and
7 look at the documents or the video recordings. I don't
8 recall specifically about the teargas.

9 Q. In your review of the materials, did you form
10 an opinion as to whether, from the police standpoint, the
11 conduct of protestors at the mayor's house during the
12 night of September 15 was an unlawful assembly?

13 MR. PRAISS: Object to the form of the
14 question to the extent it calls for legal
15 conclusion.

16 Q. You may answer.

17 A. You're asking if I thought it was an unlawful
18 assembly --

19 Q. Right, you --

20 A. -- based on --

21 Q. -- as -- as a police officer or as a -- as a
22 expert in policing.

23 A. The mere fact that they were present outside
24 the mayor's residence, in my opinion, would not
25 constitute necessarily an unlawful assembly. It would

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1 depend on what's actually happening there.

2 Q. Well, and that's my question. Based on what
3 you know was actually happening there, did you feel that
4 it constituted an unlawful assembly?

5 A. I'd have to go back and look at exactly what
6 took place there. I'm sorry.

7 Q. As an expert in policing, how would you define
8 an unlawful assembly?

9 A. I -- I would define it in the context of a
10 demonstration where there is significant violence and
11 destruction of property to the extent that public safety
12 was put at serious risk.

13 Q. As an expert in policing, to your knowledge,
14 are there statutes and ordinances throughout the country
15 that regulate unlawful assemblies?

16 A. I'm certain there are in --

17 Q. Were --

18 A. -- regards to your --

19 Q. Were --

20 A. -- jurisdiction, yes.

21 Q. Were -- Well, let's refer to Saginaw, Michigan
22 and Michigan in particular. At the time you were chief,
23 were -- were there ordinances and statutes that pertain
24 to unlawful assemblies?

25 A. Yes.

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1 Q. And in Philadelphia, to your knowledge, were
2 there similar statutes and regulations?

3 A. Yes.

4 Q. Did you ever personally have occasion to
5 employ the soft approach in an anti-police protest
6 context?

7 A. Specifically anti-police or any crowd control
8 situation?

9 Q. No, specifically anti-police.

10 A. No.

11 Q. In your opinion, do anti-police protests
12 entail greater risks for the police that are assigned to
13 crowd control?

14 A. No, not necessarily.

15 Q. From your experience and observation, are
16 injuries to police officers common to all kinds of
17 protests?

18 MR. PRAISS: Object to the form. Vague.

19 Q. You may answer if you understand the question.

20 A. There -- There is risk certainly to officer
21 safety in many circumstances, including demonstrations
22 and crowd -- crowd management situations.

23 Q. As an expert in policing, would it be your
24 opinion that a protest that is occupying major
25 thoroughfares in a metropolitan area is a lawful

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1 assembly?

2 MR. PRAISS: Object to the form of the
3 question. Vague.

4 A. Again, it depends on the unique circumstances.
5 It could be lawful.

6 Q. The term "kettle" has been used in this case.
7 Is that a recognized term of art in the policing
8 profession?

9 A. Not that I'm familiar with.

10 Q. Would it surprise you if that term originated
11 with a person who regularly participates in protests, but
12 not a police officer?

13 A. Not much surprises me anymore, frankly. Not
14 to evade the question, but...

15 Q. No, I think that's a valid answer.

16 With regard to crowd control situations, in
17 your opinion as a -- as a policing expert, if an assembly
18 is properly ordered to disperse, is it good practice to
19 take steps to prevent the reassembling of the group?

20 A. Yes.

21 MR. PRAISS: Can we take maybe a two minute
22 break? Somebody needs to get a phone from here and
23 I was trying to find a good spot. I didn't want to
24 interrupt your flow if this is okay.

25 MR. DIERKER: There's no flow to interrupt,

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1 so, yeah --

2 MR. PRAISS: That's okay.

3 MR. DIERKER: -- we can --

4 MR. PRAISS: I'll tell --

5 MR. DIERKER: -- we can take a break. I've
6 got to fumble through papers anyway.

7 MR. PRAISS: Let's take --

8 MR. DIERKER: Chief, is it okay with you if we
9 break for a couple minutes?

10 THE WITNESS: Yes.

11 (At this point, there was a break taken from
12 9:51 a.m. to 9:56 a.m.)

13 (Questions by Mr. Dierker)

14 Q. Chief, good to go?

15 A. Yes.

16 Q. Okay.

17 A. Yes.

18 Q. Chief, I'm going to show you what's been
19 marked for identification as Golden Deposition Exhibit C.
20 And I know you're going to be somewhat at a disadvantage,
21 I'm sure you have not seen this before, but can you --
22 can you read it at all?

23 A. Look like City of St. Louis, an Application or
24 something.

25 Q. Okay. Well, I will -- I will represent to you

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1 that this is a City of St. Louis form that is used for
2 permits for special events and I will also represent to
3 you that this is an application for a permit for a safe
4 free speech zone for citizens to invoke their right to
5 free speech and I'll further represent to you that this
6 was an application made by the City Police Department to
7 the City's other -- another City agency to allow for the
8 use of a park area for protesting. So, we can accept
9 those representations as to what the document is, the
10 document speaks for itself, but the reason I present it
11 to you is merely to ask you a couple questions based on
12 some assumptions. And I'd ask you to assume that the
13 St. Louis Police Department applied for a permit to allow
14 for an area for protests in anticipation of the Stockley
15 verdict and that the date of commencement of the permit
16 was August 24 of 2017. So, are you with me so far?

17 A. Yes.

18 Q. And I would ask you further to assume that
19 the -- the area designated in the permit is a park area
20 across the street diagonally from the court -- from the
21 court building where the verdict was to be announced.
22 Would the fact that the Police Department -- Assuming
23 those facts, would the effort of the Police Department to
24 anticipate an area for protest change your opinion about
25 the lack of planning by the St. Louis Police Department

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1 in this instance?

2 MR. PRAISS: I'm going to object that I
3 believe the representations and assumptions that
4 have been provided to you are incomplete and,
5 therefore, provide you with a false hypothetical
6 that's inappropriate. Subject to that, you can
7 answer.

8 Q. Okay. So, do you think you can answer my
9 false hypothetical, Chief?

10 A. The Application was about a month before, I
11 believe you said August, right?

12 Q. Yeah, the App- -- the Application contemplated
13 the possibility of protests beginning as early as
14 August 24. I'd ask you to assume that.

15 A. Okay. And the question is --

16 Q. Well --

17 A. -- does that --

18 Q. -- does that change your opinion as to the
19 quality of advance planning by the St. Louis Police
20 Department in regard to the Stockley issue.

21 MR. PRAISS: Can I have a continuing
22 objection?

23 MR. DIERKER: It may run to this line of
24 questioning.

25 MR. PRAISS: Thank you.

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1 A. No, it would not.

2 (Questions by Mr. Dierker)

3 Q. Now, I'd further ask you to assume, Chief,
4 that, in fact, an operations order was in place prior to
5 September 15 of 2017 in anticipation of protests in the
6 event of an acquittal on the Stockley case, so I ask you
7 to assume that that was in place. Would such a pla- --
8 the existence of such a plan affect or modify any of the
9 opinions that you've given so far, just -- just the bare
10 existence of the plan?

11 A. No.

12 Q. Okay. Your opinions would be formed based on
13 the contents of the plan, I assume?

14 A. Yes.

15 Q. I believe you discuss in your report what you
16 think some of the basic elements of a good plan for this
17 kind of a situation would be; is that a fair statement?

18 A. Yes.

19 Q. And is it fair to say that one element of a --
20 of a good advance plan would be the designation in
21 advance of incident commanders?

22 A. Yes.

23 Q. And do you think it would be a good planning
24 practice to have staging areas identified in advance?

25 A. Yes.

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1 Q. From the materials that you reviewed, do you
2 think the uniform and equipment of the bicycle officers
3 that you observed was of the kind of, shall we say
4 provocative nature that the riot equipment would be?

5 A. No, they appeared to be standard bicycle
6 patrol uniforms.

7 Q. In your opinion, how is it -- what is the best
8 policing practice to deal with agitators within a larger
9 group?

10 A. I think to the extent that the police know who
11 the agitators are, know who the informal leaders, if you
12 will, of the demonstrators might be, establishing
13 rapport, having a liaison with those individuals and even
14 engaging those informal leaders in policing their own
15 is -- is a best practice.

16 Q. I believe in your opinion, you express the
17 view that unlawful assemblies were hastily declared at
18 one or more points in -- during the various incidents; is
19 that correct?

20 A. Yes, it appeared that way.

21 Q. And do you recall at this point with any
22 specificity when and where you felt unlawful assemblies
23 were hastily declared?

24 A. Not specifically when and where. Again, it
25 was -- the material was pretty voluminous as well as the

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1 recording, so I'd have to go back and pinpoint it under
2 further review, but at the time that I reviewed those
3 materials, that's the conclusion that I came to.

4 Q. In any of the materials that you reviewed, did
5 you observe any apparent command officers engaging in
6 conversation with protestors?

7 A. No. It depends on how you define "command
8 officers." In a situation like this, for me it would be
9 senior level ranking police officials.

10 Q. And are you awa- -- does the name
11 "Brian Rossomanno" mean anything to you?

12 A. I believe he's a sergeant on the Police
13 Department there if I'm not mistaken. Yes is the answer,
14 yes.

15 Q. Okay. And were you aware that his assignment
16 involved supervision of the -- what the Police Department
17 referred to as the Civil Disobedience Team?

18 A. Yes.

19 Q. Would you expect -- Would you consider it to
20 be good policing practice if the person in charge of a
21 civil disobedience unit was relied on by the Department
22 to evaluate assemblies in the declaration of unlawful
23 assemblies?

24 A. In my opinion, that would have to be someone
25 at the senior level, higher than a sergeant or

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1 lieutenant.

2 Q. As far as you can recall, the materials that
3 you reviewed specifically with -- with regard to
4 September 15, were those focused primarily on the
5 incident involving the buses and their extraction?

6 A. As well as other events that -- that
7 afternoon, yes.

8 Q. What other events do you recall?

9 A. I recall just a handful of protestors
10 confronting officers on -- on the line, more or less.
11 There were a line of officers and several -- a small
12 group of protestors were being confrontational with them,
13 verbally confrontational. I believe that was the same
14 afternoon as the bus incident.

15 Q. Did you observe video of protestors breaking
16 up concrete sewer lids and throwing concrete at officers?

17 A. No.

18 Q. Did you have occasion to review any video of
19 protests -- protestors marching through City streets
20 prior -- earlier in the day, say between noon and 5:00
21 p.m. on September 15?

22 A. I looked at a lot of video footage and it was
23 difficult to pinpoint precisely the day and time as I
24 recall. I mean, it was just, you know, one after the
25 other after the other, so it -- I can't specifically say

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1 that I -- that I witnessed what you just mentioned.

2 Q. Referring to Page 6 of your report, Item 19, I
3 would like to quote that for you. Quote, "Law
4 enforcement agencies should have crowd control policies
5 that focus on protecting citizens, to include protesters
6 and bystanders, and procedures to effectively disperse
7 disorderly crowds in an effort to eliminate the immediate
8 risks of continued escalation and further violence," end
9 quote.

10 A. Yes.

11 Q. What -- What procedures, in your opinion,
12 should be in place to effectively disperse disorderly
13 crowds?

14 A. Well, one is to make sure that there is an
15 area designated into which a crowd could be dispersed
16 and -- and -- and then having resources available so that
17 they don't reconvene. And I think the idea that there
18 would be no area of dispersal specifically on the night
19 of the 17th is -- is totally foreign to me in my
20 experience. I just don't understand why protestors would
21 not have been given an area for dispersal. And that
22 should be part of the operations plan.

23 Q. What, in your opinion, would constitute
24 dispersal of an unlawful assembly?

25 A. Basically, you know, having the -- the

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1 protestors leave the immediate area that -- that needs to
2 be evacuated and then dispersed into an area where they
3 could eventually, you know, move, be on their way. So,
4 you're asking me what constitutes it, it's if -- if an
5 order is issued for them to disperse, they ought to be
6 given an opportunity to do that and an area, again, where
7 they can disperse.

8 Q. What -- What kind of methods, in your opinion,
9 should be deploy to -- be deployed or used to ensure that
10 the crowd obeys the order to disperse? How would you
11 physically accomplish that, in your opinion?

12 A. Well, I mean, there are various methods. I
13 mean, one would be to just have a -- a cadre of officers
14 or group of officers positioned in such a way as to move
15 the crowd toward the area where you want them to
16 disperse.

17 Q. So, you would see -- I'm trying to get at
18 what, you know, physically the officers would be expected
19 to do if the crowd is not compliant with verbal orders.

20 A. Well, again, moving in the direction of the
21 crowd, urging them to -- to move and disperse, so, you
22 know, that's where your tactical interventions come into
23 play and, you know, that's -- that's just one method
24 of -- of dispersing a crowd. And typically, in my
25 experience, it's one where it's pretty effective.

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1 Q. Referring again to your report at Page 6, Item
2 22, you -- I quote, "The situation near the intersection
3 of Euclid and McPherson on Friday evening, September 15,
4 seemed to begin with a fairly innocuous gathering of a
5 small number of protesters who were behaving in a
6 peaceful manner," close quote. Did -- Did any of the --
7 I think we alluded to this before. Are you familiar with
8 the conduct of the protestors at and around the mayor's
9 office (sic) immediately prior to protestors appearing at
10 Euclid and McPherson?

11 A. The mayor's office?

12 Q. The mayor's -- I'm sorry. The mayor's house.

13 A. You're asking am I familiar with that
14 particular event?

15 Q. Right.

16 A. Yeah, I -- I don't believe I saw any footage
17 or video recordings of protestors at the mayor's house.
18 I -- I -- I read about it in some of the documents.

19 Q. Okay. Referring again to your report at Page
20 20 -- Page 7, Item 25, you say, quote, "The testimony of
21 plaintiffs in this matter, along with hours of video
22 recordings of the events on Friday, September 15 and
23 Sunday, September 17, support the claims of inappropriate
24 use of pepper spray and other chemical munitions against
25 many of the protesters who were engaged in nonviolent,

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1 peaceful protests," close quote. Do you have an estimate
2 of how many protestors were subjected to that conduct?

3 A. I don't.

4 Q. Are you aware of an incident at -- In
5 St. Louis, we always refer to it as Highway 40. I think
6 technically nowadays, it's Interstate 64. But are you
7 aware of any incident involving a mass arrest at
8 Jefferson Avenue and Interstate 64/Highway 40 in the City
9 of St. Louis in September of 2017?

10 A. No, I'm not. I mean, you're saying in
11 September. I don't -- I don't have a date on that, but
12 I --

13 Q. Okay.

14 A. -- can't say that I'm familiar with that
15 anyway.

16 Q. Okay. Well -- Well, let me -- let me broaden
17 it. Are you aware -- Did you review any materials with
18 regard to a mass arrest of protestors who had blocked
19 traffic on Highway 40 in the fall of 2017?

20 A. No, I don't believe so.

21 Q. Referring to Page 10 of your report, Item 34,
22 and I think you've alluded to this before in the context
23 of the questions I asked you about custom. I think -- Is
24 it fair to say, in your opinion, the conduct of some
25 police officers in the fall of 2017 were contrary to

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1 established policies and procedures of the St. Louis
2 Police Department?

3 A. I'm sorry, would you state the question again,
4 please?

5 Q. Well, let me go back to review -- and put it
6 in terms of your Item 34. In view of the policies and
7 procedures set forth in Metropolitan Police Department
8 Special Orders 1-01 and 1-06 -- and I'm paraphrasing --
9 it is clear that the actions of some of the officers were
10 discriminatory, arbitrary, and wholly inconsistent with
11 the spirit and letter of police department policy. I
12 mean, that -- that -- is that your opinion?

13 A. Yes.

14 Q. Okay. Now, on Page 12, Item 42, you state,
15 quote, "I am aware of no reason that would lead me to
16 believe that the treatment of Luther Hall was isolated,
17 rather than a part of the overall arbitrary and
18 unreasonable response of St. Louis Metropolitan Police
19 Department officers," close quote. And what -- what
20 leads you to believe that that was not isolated?

21 A. From everything that I -- I read about that
22 incident, it just seemed that Officer Hall was caught up
23 in the moment with all the other -- was -- was viewed as
24 one of the protestors and, as a result, excessive force
25 was used against him.

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1 Q. Are you aware of any other protestor who has
2 had any course of medical -- Well, let me rephrase the
3 question.

4 Are you familiar with the course of medical
5 treatment that Officer Hall has had to undergo since the
6 incident?

7 A. I -- I -- I only know of the immediate medical
8 treatment that he received that night and -- and I think
9 there was a subsequent diagnosis by a doctor that is
10 referenced in -- in my report, as well.

11 Q. Are you aware of any other protestor who
12 suffered any comparable injury at the hands of St. Louis
13 Police during September 15 to the 17th?

14 A. For which they received medical treatment?

15 Q. No, for -- Well, regardless of medical
16 treatment, are you aware of any other protestor
17 sustaining similar injuries?

18 MR. PRAISS: Object to the form of the
19 question. Overbroad.

20 A. No.

21 Q. To what extent, if any, are you aware of
22 injuries suffered by police during the incidents in
23 September of 2017?

24 MR. PRAISS: Other than Luther Hall's?

25 Q. Other -- Other than Luther Hall.

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1 MR. DIERKER: Good point.

2 A. Yeah, I don't know of specific officers other
3 than Hall who were injured. I mean, there were
4 references to things happening, but I don't know of any
5 other specific injuries to officers.

6 (Questions by Mr. Dierker)

7 Q. In your opinion, is the -- Let me rephrase
8 that.

9 To what extent, in your opinion, are injuries
10 to officers assigned to crowd control indicative of
11 unlawful behavior by the crowd?

12 A. Well, any -- any officer who is injured as a
13 result of an attack or an assault, I mean, that's
14 obviously criminal behavior.

15 Q. As an expert in policing, how would you
16 explain the differences between civil disobedience,
17 protest, and violent disorder?

18 A. Well, I mean, civil disobedience is an act of
19 protest. It can be -- It can be blocking traffic or
20 otherwise impeding the flow of, you know, normal
21 activity. A peaceful protest can be the result of, you
22 know, someone or some group gathering to -- to exercise
23 their First Amendment right. And then a -- I think the
24 third thing is you asked about a violent protest?

25 Q. Right, how do you distinguish these on a

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1 continuum?

2 A. Well, as I pointed out, then, you know,
3 violence, of course, is -- is, you know, what the word
4 means, of course. It's either people attacking each
5 other or attacking the police, attempting to inflict
6 bodily injury or harm against others. That would be a
7 violent protest. Or, you know, severe destruction of
8 property, you know, setting buildings on fire, that kind
9 of thing.

10 Q. And forgive me if I should have picked this up
11 from looking at your resume, but could you describe any
12 frontline operator command training you have in public
13 order or civil disorder situations?

14 A. I mean, as part of my regular academy training
15 many years ago, I mean, it was woven into the basic
16 police academy training, and then subsequent to that,
17 regular annual in-service training always included some
18 elements of dealing with crowds and demonstrations,
19 especially in Philadelphia where that kind of thing
20 occurred frequently.

21 Q. And I think we did allude to this already, but
22 just so I'm clear, your direct personal involvement in --
23 in protest activity with or without civil disorder was
24 the Saginaw situation?

25 A. Where -- Where I was in command, yeah, I was

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1 the chief of police and the overall commander of -- of
2 those two protests in Saginaw. Prior to that, in
3 Philadelphia, I was a senior official working alongside
4 others who were responsible for dealing with crowds,
5 special events. We had -- We had a KKK rally in
6 Philadelphia, as a matter of fact, in 1988 where I was
7 directly involved in that, as well.

8 Q. When we're -- You served for a considerable
9 period as a -- as a line officer in Philadelphia;
10 correct?

11 A. Yes.

12 Q. And did -- at the time that -- of your
13 service, did the standard police officer equipment
14 include handheld mace or pepper spray?

15 A. No, no, that was later on in my career. In
16 Philadelphia, you were issued a helmet and baton that we
17 call a nightstick and there was not for many years -- not
18 until many years later was there the availability of
19 pepper spray or mace. And, frankly, I believe that was
20 toward -- pretty much toward the end of my tenure in
21 Philadelphia.

22 Q. In your opinion, how many hours per year of
23 training are required for both civil disorder deployable
24 officers and commanders regarding public order or civil
25 disorder events?

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1 A. I think it would depend on the jurisdiction.
2 In -- In larger cities, certainly more hours would be
3 required for that kind of training. In smaller
4 jurisdictions, perhaps less so. So, it's difficult to
5 say exactly the number of hours of training that would be
6 required, but in a city like St. Louis or Philadelphia,
7 other major cities, I would say it would have to be
8 constant and ongoing training.

9 Q. Are you familiar with the term "stress
10 inoculation"?

11 A. I'm familiar with the two words, but not as
12 a -- not as a phrase or term, no.

13 Q. Not -- Not as part of police training?

14 A. No.

15 Q. In your experience -- Or to what extent in
16 your experience are specialized officers the norm in
17 regard to crowd -- crowd control?

18 MR. PRAISS: Object to the form of the
19 question. Vague.

20 A. What -- What I'm familiar with in -- in every
21 jurisdiction where I serve is the need for a what we call
22 special operations or tactical group, usually a smaller
23 section of the department where officers are trained in
24 special weapons and tactics, also known as SWAT. And
25 in -- in -- in Philadelphia, we called them before the

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1 stakeout unit or highway patrol, but these were specially
2 trained officers who would be available for assignment
3 in -- in special crowd control situations.

4 Q. Do you think only specialized officers should
5 be deployed to public order or civil disorder events?

6 A. No, I think it should be multilayered.

7 Q. Do you think all officers, regardless of
8 training level, are capable of responding appropriately
9 to a high stress, potentially violent situation?

10 A. I think, yeah, that's just -- it's part of the
11 job, so I think every officer should have some training
12 and some ability to respond in those situations.

13 Q. As far as you are aware, is there any
14 nationally accepted standard around public order
15 policing?

16 A. You're asking about a specific national
17 standard?

18 Q. Right, in your experience, do you believe
19 there exists such a nationally recognized standard?

20 A. No, and I think that there, as I indicated in
21 my report in some of the references, I think -- I think
22 there are a plethora of resources that help guide police
23 departments in dealing with -- with crowd control
24 situations.

25 Q. Do you have an opinion as to why there is not

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1 a single nationally recognized standard?

2 A. No.

3 Q. Is it your opinion that officers speaking in
4 low, nonthreatening tones would be efficacious in a
5 violent protest situation?

6 A. When you're saying "violent," I mean, what
7 specifically? Can you give me an example of a violent
8 protest that you're talking about?

9 Q. Well, I'll -- I'll use the -- the framework
10 that you described earlier where there's threats or
11 battery of persons, serious property damage conduct.

12 A. Yeah, in those situations, I think a direct
13 intervention to -- to abate the activity or the behavior
14 certainly is warranted and there ought to be officers who
15 are specially trained for that type of intervention
16 should something like that occur.

17 Q. Are there, in your opinion, circumstances in
18 which loud, clear, and precise communication by police is
19 appropriate across the spectrum of public order events?

20 A. Is there -- I'm sorry, repeat that question,
21 please.

22 Q. In your opinion, are there any circumstances
23 in which loud, clear, and precise communication by police
24 is appropriate across the spectrum of public order
25 events?

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1 A. Yes.

2 Q. What would those situations call for -- In
3 what situations would it call for loud, clear
4 communication?

5 A. Well, I mean, if -- if police deem it
6 appropriate to -- to issue a -- a loud, clear order of
7 whatever type, then certainly, you know, I think it's
8 appropriate. I mean, I guess I'm not totally following
9 the question, but --

10 Q. No, I -- I think you've --

11 A. -- sure --

12 Q. -- answered it.

13 A. -- there would be specific circumstances where
14 that -- that would be appropriate, yes.

15 Q. Could you describe how officers can both keep
16 their distance and yet quickly and efficiently identify
17 and remove agitators interspersed among peaceful
18 protestors so as to mitigate escalation?

19 A. Well, that's where I think the small cadre of
20 tactical officers who are specially trained and -- and --
21 and very disciplined in their response should be deployed
22 while maintaining your normal contingent of officers
23 on -- on a demonstration line. So, there are going to be
24 situations where agitators will go after the officers on
25 the line, and then if some of the agitators behave

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1 violently or -- or engage in criminal conduct, then you
2 deploy your tactical group to deal with that, the small
3 number of agitators.

4 Q. And how would such a tactical group be
5 equipped, in your opinion?

6 A. I mean, it depends. I mean, certainly there's
7 the standard equipment that all officers carry and, you
8 know, for the tactical group, sure, they -- they would
9 have additional equipment perhaps in order to effectively
10 do their jobs.

11 Q. Such as military style riot gear?

12 A. Perhaps, yes.

13 Q. Is it fair to state that, in your opinion,
14 it's appropriate for police officers that are deployed to
15 a public order event to have equipment ranging from the
16 standard equipment to tactical riot gear?

17 A. Yes, some of the officers, yes.

18 Q. And if I understood your views correctly, the
19 officers who are, I'll -- I'll say riot-equipped,
20 helmets, protective body armor, if you will, in your
21 view, the appropriate deployment of those officers would
22 be at some distance from the protest unless and until the
23 violence required further deployment; is that fair?

24 A. Yeah. Yes, that's correct.

25 Q. Are you aware that a number of weapons were

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1 retrieved from the scene at Tucker and Washington on
2 September 17?

3 MR. PRAISS: Object to the form of the
4 question. Vague.

5 A. I saw photographs of items that -- that I
6 believe were -- I guess they were confiscated. I don't
7 know for sure, but they were part of the package of
8 materials that I reviewed.

9 Q. Okay. Well, you say "items." Did you see
10 firearms?

11 A. I believe, yes, one or two of those photos
12 included firearms, yes.

13 Q. In your opinion, is it possible that a police
14 retreat could enable the development of a mob mentality
15 which would cause further risk to protestors and public
16 safety?

17 MR. PRAISS: Object to the form of the
18 question.

19 A. It depends on what you mean by "retreat." You
20 mean totally removing themselves from the scene or what
21 do you mean by "retreat"?

22 Q. Well, how would you define "retreat"?

23 A. I think there are any number of levels of
24 retreat. It's -- You know, that's what I'm trying to get
25 at.

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1 Q. Well, let's start at whatever you consider the
2 lowest level of retreat.

3 A. Turning away from an incident where police
4 intervention is required, I guess, would be a retreat and
5 would be -- it would be...

6 (At this point, the picture on the screen
7 froze momentarily and there was no audio.)

8 Q. I think we're having technical difficulties at
9 this end, Chief.

10 A. Oh, okay. What's the matter, you're not
11 seeing me or hearing me?

12 MR. PRAISS: We lost you for a couple seconds
13 there.

14 Q. Yeah, we lost --

15 A. Oh.

16 Q. -- we lost audio.

17 A. Oh, okay.

18 MR. PRAISS: Want to ask the question again?

19 Q. Well, let me back up and we'll take it step by
20 step. I think you were about to discuss the situation
21 where officers turn away from violent behavior. And I
22 take it you think that would not be a good response from
23 a professional standpoint; is that fair?

24 A. That -- That's right. A violent event would
25 require direct intervention on the part of police

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1 officers.

2 Q. With regard to your review of the incident on
3 September 15 involving the -- the buses, did you see any
4 indication that at any point that officers did, in fact,
5 retreat?

6 A. No, I'm just -- I'm hearkening back to the
7 video of that and all I see are two buses, I think, and
8 protestors blocking the egress of those buses.

9 Q. Well, let -- let me give you a hypothetical,
10 Chief. You know, let's assume that we have a crowd of
11 approximately a hundred or so protestors blocking traffic
12 and engaging in, shall we say verbal -- verbal attacks on
13 police officers or directed at the police. Is there a
14 situation, in your opinion, where -- I'm sorry. Let me
15 start that whole thing over. The lawyers are all -- all
16 my colleagues here are going to be chuckling at my
17 difficulty in formulating a hypothetical.

18 But I would ask you to assume that -- that you
19 have officers who are not riot-equipped in the presence
20 of a hundred or so demonstrators who are not exhibiting
21 assaultive behavior, but are, you know, clearly agitated.
22 In your opinion, would it be appropriate police conduct
23 for the police to disengage and remove themselves from
24 sight and sound of the demonstrators?

25 A. No, not to remove themselves in that

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1 situation, but certainly not to allow that to provoke
2 police into some -- some physical response.

3 Q. In your opinion, are there circumstances in
4 which the police -- in which police disengagement by
5 removing themselves to a distance from a protest could
6 cause the protest to escalate?

7 A. That's possible.

8 Q. And in that situation, would it be your
9 opinion that that would create an increased need for use
10 of tactics by the police that might otherwise have been
11 avoided?

12 A. Well, in my opinion, I think that's where
13 ongoing evaluation and assessment is -- is critical on
14 the part of police so as to the extent possible avoid the
15 use of force.

16 Q. Are you aware of situations in the United
17 States where police departments have been sued for
18 failing to respond effectively to a public disorder?

19 A. In terms of a lawsuit, no, I don't know
20 specifically, no.

21 Q. Do you have a ballpark number, in your
22 opinion, of the hours of training that would be required
23 to generate officers and commanders with the appropriate
24 skill sets and capabilities to accomplish crowd
25 management?

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1 A. I would say as a baseline, you know, 40 hours
2 of specific crowd control management training would be
3 required and -- and then, of course, being forced through
4 subsequent in-service training for those officers, but,
5 again, I believe there are different levels of response
6 to a crowd control situation and it would depend on an
7 officer's specific assignment. For example, if you're a
8 SWAT team member, of course you're going to have much
9 more tactical training, but for line officers, regular
10 line officers, I would say, again, at least 40 hours of
11 training in crowd control management.

12 Q. Are you familiar with the -- the phrase or
13 term "incident command system"?

14 A. Yes.

15 Q. And what does that mean to you?

16 A. It's -- It's a unified command system where
17 the incident command system is where someone is
18 designated to oversee the police operation at an incident
19 and that ICS, as we call it, or the incident command
20 system individual would be responsible for making
21 decisions with regard to the police response to that
22 incident.

23 Q. Do you think the use of that structure works
24 well for the management of public order events?

25 A. I believe it does, yes.

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1 Q. In your experience across police departments,
2 do you think law enforcement officers and commanders
3 receive enough training in ICS to adequately utilize it?

4 A. There is -- There is basic ICS training, but,
5 again, I think, you know, once an individual is certified
6 in ICS, then that has to be reinforced through regular
7 in-service training follow-up.

8 Q. And to what extent, if any, are you aware of
9 any ICS certified officers in the St. Louis Police
10 Department?

11 A. Not at all. I'm not aware.

12 Q. As a best practice, should all disorderly
13 persons always be given the opportunity to disperse even
14 though they might have committed prosecutable offenses?

15 MR. PRAISS: Object to the form. Overbroad.

16 (At this point, the picture on the screen
17 froze momentarily and there was no audio.)

18 THE REPORTER: I think we have a freeze. We
19 missed your answer. You -- The screen froze right
20 at the answer.

21 THE WITNESS: Oh, okay, I think my attorney
22 or -- was objecting there for a moment.

23 MR. DIERKER: He was. Do you want to read the
24 question back?

25 (At this point, an off-the-record discussion

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1 was had.)

2 (At this point, the reporter read back the
3 question beginning on Page 55, Line 12.)

4 A. I believe there are some circumstances where,
5 in the overall best interest of public safety, you might
6 allow a low-level offender. When you talk about
7 prosecutable offenses, I mean, there are low-level
8 offenses that making an arrest of that individual, those
9 persons could exacerbate or make the situation worse, and
10 in those circumstances, then I would say you're probably
11 better off allowing those people to disperse. A
12 disorderly conduct, for example, is a low-level offense
13 in my view.

14 MR. PRAISS: At some point, can we take a,
15 like, five minute break?

16 MR. DIERKER: You want --

17 MR. PRAISS: We've been going for a while.

18 MR. DIERKER: You want to break now?

19 MR. PRAISS: If you don't mind.

20 MR. DIERKER: Yeah, that's fine.

21 (At this point, there was a break taken from
22 10:45 a.m. to 10:52 a.m.)

23 (Questions by Mr. Dierker)

24 Q. Chief, I think your recommendation is or at
25 least your opinion is that it's good policing practice to

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1 keep the -- the officers in riot gear out of sight of the
2 protestors to -- as best you can; is that fair?

3 A. Yes.

4 Q. Now, if you've got a situation where the
5 protestors are on the move and it's difficult to predict
6 what their route is, is it always feasible to keep the
7 tactical people out of sight and sound?

8 A. Well, I mean, in those situations, you know,
9 it has to be fluid. I mean, repositioning those tactical
10 officers would be appropriate, given the -- the
11 circumstances and the movement of the crowd.

12 Q. With regard to the September 15 incident
13 involving the buses, from the materials that you
14 reviewed, were you aware that the -- that the buses
15 contained the riot-gear-equipped officers?

16 A. Yes.

17 Q. And were you aware that the protestors
18 actually moved toward the buses?

19 A. Yes.

20 Q. And are you aware that a lot of the activity
21 in the vicinity of Tucker and Clark at that time was a
22 function of the efforts of the police to remove the buses
23 and the riot-equipped police?

24 A. Yes.

25 Q. As a general proposition, when -- in your

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1 opinion, when is it appropriate to deploy the
2 riot-gear-equipped officers?

3 A. When there is the -- the obvious threat. If a
4 threat level rises and the potential for violence is --
5 is imminent, then I would say that would -- you know,
6 that's a situation where it's appropriate to deploy
7 tactical officers.

8 Q. So, would -- would it be appropriate to deploy
9 when members of the crowd begin to throw objects at the
10 non-riot-equipped officers?

11 MR. PRAISS: Object to the form of the
12 question. Vague.

13 A. It could be.

14 Q. How about a situation where the crowd --
15 members of the crowd are breaking windows and engaging in
16 other property damage?

17 MR. PRAISS: Same objection.

18 A. Yes.

19 MR. PRAISS: Vague.

20 THE WITNESS: Sorry.

21 MR. DIERKER: Did you get his objection and
22 the answer?

23 THE REPORTER: I got both of them, yeah.

24 MR. DIERKER: Okay.

25 A. Under those circumstances, yes, it would be

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1 appropriate.

2 (Questions by Mr. Dierker)

3 Q. In your opinion, what would be the appropriate
4 tactic to deal with what we'll call passively resistant
5 individuals, such as the people who were blocking the
6 buses on September 15?

7 A. Passively resistant? You mean like --

8 Q. Well --

9 A. -- in front of the buses or something like
10 that?

11 Q. Well, let me make it more concrete. Did you
12 obser- -- In any of the videos, did you obser- -- did you
13 observe protestors locking arms in front of police buses?

14 A. Yes.

15 Q. And in your opinion, what measures would be
16 appropriate to eliminate that blockage?

17 A. I think in that situation, negotiated
18 management, liaising with leaders of the -- of the
19 demonstrators, you know, (inaudible) possible to -- to
20 gain --

21 Q. Chief? Chief?

22 A. -- compliance.

23 Q. Chief, I'm sorry, but we -- we lo- --

24 A. Yeah.

25 Q. -- we lost transmission there, so --

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1 A. Okay.

2 Q. -- if you don't mind starting your answer
3 again.

4 A. Yeah, given that scenario that you described
5 and I think from what I saw in the recordings, it would
6 be important to -- to engage with the demonstrators on a
7 verbal level, in other words, to communicate with them,
8 to negotiate with them and try to the greatest extent
9 possible to gain compliance, explaining to them the --
10 the -- the importance of allowing the buses to leave the
11 area and relocate. That would be the approach that I
12 would take.

13 Q. Well, let's assume the individuals refuse to
14 comply based on persuasion. What would be the next
15 appropriate measure?

16 A. Well, I mean, if they -- if they are
17 peacefully and passively resisting, then, you know,
18 perhaps arresting and removing those individuals who were
19 blocking the bus.

20 Q. So, that would require hands-on police
21 activity; correct?

22 A. If no -- If no other alternative is working,
23 yes.

24 Q. Would you approve of the use of pepper spray
25 in that situation?

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1 A. No.

2 Q. Would you approve of the deployment of
3 officers with batons to physically force the individuals
4 to move aside?

5 A. No, I would say if they're passively
6 resisting, then you would use some kind of hand restraint
7 and -- and pick them up and -- and remove them from --
8 from that area.

9 Q. In your experience, are there situations in
10 which members of a crowd are committing violent acts, but
11 it's difficult or impossible for the officers to identify
12 precisely who's committing the acts?

13 A. Yes, I'm familiar with those situations, yes.

14 Q. And what, in your opinion, would be the best
15 policing response in that situation?

16 A. If you witness, I'm sorry, is it --

17 Q. Well --

18 A. -- criminal --

19 Q. -- I'll -- I'll re- --

20 A. -- behavior?

21 Q. -- I'll re- --

22 A. Go ahead.

23 Q. -- phrase, Chief.

24 A. Yeah.

25 Q. I mean, I -- I would ask you to assume that

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1 a -- a group of protestors in the 50 to 100 -- numbering
2 50 to a hundred are engaged in a march or a demonstration
3 and missiles are projecting from within the crowd, but
4 the officers on the scene cannot identify specifically
5 the perpetrators. What, if any, measures would you
6 approve to be undertaken with -- in that situation?

7 A. I would -- I would, again depending on the
8 level of activity, certainly attempt to disperse that
9 particular crowd, that group that are responsible for the
10 projectiles, so dispersal would be, I think, an
11 appropriate response.

12 Q. Would the use of mace or pepper spray in that
13 situation be appropriate?

14 A. Not necessarily.

15 Q. When, if at all, would you approve the use of
16 pepper spray or mace to aid in dispersing an unruly
17 demonstration or protest?

18 A. Well, certainly I believe if the officers are
19 under direct attack, if they're being assaulted by the
20 protestors directly, then, of course, the officer has the
21 right to protect himself or herself and -- and deploy
22 chemical mace in those situations.

23 Q. In any of the materials that you reviewed,
24 did -- did you see any indication of members of the crowd
25 objecting to efforts by police officers to converse and

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1 defuse the situation?

2 A. I saw a couple of -- I saw a couple of
3 officers engaging with protestors, talking to them and, I
4 mean, the pro- -- the -- the protestors continued in
5 their -- their activity of verbal -- verbal abuse, if you
6 will, of the officers, but I think if that's what you're
7 asking.

8 Q. I'll accept that. What is the best practice,
9 in your opinion, when there are no identifiable leaders
10 of a protest that has become unruly?

11 A. I'm sorry, what --

12 Q. Well --

13 A. -- what do you do --

14 Q. -- let me --

15 A. -- are you saying when you can't identify?

16 Or...

17 Q. Well, let me ask you this: In your
18 experience, you know, are you aware of situations in
19 which a crowd of protestors has no le- -- identifiable
20 leaders with which the police can communicate?

21 A. I mean, yes, I mean, sure, that can happen.

22 Q. And in that situation, in your opinion, is the
23 soft approach likely to be effective?

24 A. I believe -- I believe the police ought to use
25 whatever de-escalation tactics they're trained in and

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1 familiar with regardless of whether there are leaders,
2 identifiable leaders, or not. You can -- You can
3 approach individual protestors and engage them verbally
4 and try to gain compliance that way. You don't
5 necessarily have to know who the leaders are.

6 Q. I believe at one point, I -- I think it's
7 Paragraph 13 of your report, you reference an apparent
8 failure to have clergy and senior commanders of the
9 Police Department present and available at some of these
10 incidents. Are you aware that, in fact, some
11 participants in the protest were politicians and officers
12 of City Government?

13 A. I am familiar with one individual who I
14 believe offered testimony at the hearing who was
15 identified as a member of City Council, I believe.

16 Q. Based on the materials you reviewed, Chief, is
17 there anything that the City Police did right?

18 A. That's a pretty broad -- That's a pretty broad
19 question.

20 Q. Well, I'll take -- I'll --

21 A. I mean --

22 Q. -- take -- I'll take any crumbs of approval.

23 A. Well, yeah, I mean, for example, I did see a
24 couple of officers without riot gear, without even a hat
25 on, I think I recall in one recording an officer who

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1 didn't even have on a cap was speaking in a soft tone
2 with a couple of the protestors, so I saw that kind of
3 interaction occasionally as I reviewed the video
4 recordings. I thought that was pretty positive.

5 Q. In your experience, is it possible that
6 protestors in a situation which could be described as
7 anti-police, that elements of the protestors are desirous
8 of provoking the deployment of mace or other force
9 measures?

10 MR. PRAISS: Object to the form of the
11 question. Calls for speculation.

12 A. I'm sorry, are you asking if --

13 Q. Well, let me -- let me re- -- restate it.

14 A. Yeah.

15 Q. You know, I'm just asking, in your experience,
16 is it possible that elements of a protest group are
17 desirous of inducing the police to use force?

18 MR. PRAISS: Same objection.

19 A. I am -- In my experience, for example, in
20 Saginaw, the anti-Klan protestors were more challenging
21 for the police than the Klan members themselves, so that
22 I'm familiar with.

23 Q. Well, in that situation, did -- did you
24 perceive that some members of the protest group wanted a
25 violent confrontation with the police?

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1 A. No, not a violent confrontation with the
2 police. I think they -- they -- they were provoking,
3 they wanted to provoke some -- some outcome that was
4 favorable to their cause, yes.

5 Q. Do you think they wanted to provoke deployment
6 of force by the police?

7 A. Not specifically, no.

8 Q. Do you think that that is -- that it is
9 impossible that elements of a protest group would want to
10 provoke a violent confrontation with police?

11 MR. PRAISS: Object to the form of the
12 question.

13 A. It's not impossible.

14 Q. In your experience and as a veteran police
15 officer, what would be your reaction to observing a
16 protest group that included numerous people who are
17 wearing masks and goggles?

18 A. I would think that they were -- they had that
19 equipment to protect themselves.

20 Q. Would -- Would you as a -- Would -- Would it
21 be your view as a -- from the standpoint of a police
22 officer that that would be indicative of an expectation
23 that there will be disorder?

24 MR. PRAISS: Object to the form of the
25 question. Vague.

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1 A. No, my sense is that they had that equipment
2 in the event that mace would be deployed against them.
3 That's how I -- That's what I inferred from what I saw
4 there.

5 Q. In terms of making an arrest of -- or a mass
6 arrest of a group of protestors, would the presence
7 within the group of persons equipped with goggles and
8 masks suggest that they were, in fact, members of the
9 protest group?

10 A. Yes.

11 Q. And -- And I guess I'll restate the question a
12 little bit differently, but in your opinion, would you
13 feel that a reasonable police officer should have any
14 greater concern when confronted with a group of
15 protestors who are masked?

16 A. No.

17 Q. You think wearing masks is an ordinary and to
18 be expected part of a lawful protest?

19 A. Yeah, in my -- in my opinion, the sense I got
20 was that they were expecting that that could happen, yes.

21 Q. No, I'm not asking about the specifics. I'm
22 just asking for your general opinion about whether
23 officers who are confronted by masked protestors have
24 reason to regard that group differently than a group that
25 is not wearing masks.

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1 A. Oh, I see what you're saying. Well, no,
2 not -- not just merely wearing a mask, no.

3 Q. So, in your view, that does not give rise to
4 any kind of inference that people are wishing to disguise
5 their identity?

6 A. Absent other behaviors and activity, no.

7 Q. So, if there is other behavior such as
8 throwing rocks and bottles, you think the presence of
9 masks could be a factor in the police response?

10 A. Yes, it could be.

11 MR. DIERKER: Can we go off the record for a
12 minute?

13 MR. PRAISS: Sure.

14 (At this point, there was a break taken from
15 11:12 a.m. to 11:14 a.m.)

16 (Questions by Mr. Dierker)

17 Q. Chief, okay?

18 A. Yes.

19 Q. Chief, I think you, in the context of unlawful
20 assemblies, I think you referred to significant violence.
21 Is there any violence that you consider insignificant?

22 A. Well, and, again, it depends on how you define
23 violence. Assaultive behavior certainly is -- of any
24 kind is significant, especially in those situations. You
25 know, throwing a bottle, a water bottle or something like

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1 that, not so significant, but yet it could be deemed a
2 violent act.

3 Q. What about property damage to -- when, in your
4 opinion, does it become significant?

5 A. Oh, I mean, brea- -- smashing windows of
6 storefronts and things like that, you know, burning
7 buildings or property, that is significant.

8 Q. And in formulating your opinions, did you
9 review the Missouri statute and the City ordinance
10 regarding unlawful assembly?

11 A. Yes.

12 Q. And did you also review the City ordinances
13 regarding blocking or impeding the flow of traffic?

14 A. Yes.

15 Q. Okay.

16 MR. DIERKER: I don't have anything further.

17 MR. PRAISS: Okay. I have no questions.

18 (At this point, an off-the-record discussion
19 was had.)

20 (Questions by Mr. Dierker)

21 Q. I'm sorry. Chief, it's -- you know, I -- I
22 apologize since I'm so rusty at the drill. Were there
23 any questions that I asked you that you need me to repeat
24 for clarification or do you think we -- you understood
25 everything that I asked?

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1 A. No, I did. Thank you for following up some of
2 those where I had questions, but at this point, I can't
3 recall anything that's unclear.

4 MR. DIERKER: Okay. And you have the right to
5 read and review the deposition and sign it and you
6 would be able to make corrections to the deposition
7 if you desired or you may waive signature. And I
8 will pass the buck to counsel to advise you with
9 regard to waiver.

10 MR. PRAISS: Jim, it's totally up to you. My
11 recommendation to clients typically is to take the
12 time to review it. If for some reason, especially
13 with Skype technology, if as you read the transcript
14 you realize that something got transcribed
15 incorrectly, that's you have an errata sheet and
16 opportunity to correct it. Obviously, it means
17 you've got to relive this thing again, but it won't
18 take you that long. It's not a very long
19 deposition.

20 THE WITNESS: Right. Okay, sure, I'll -- I'll
21 do that.

22 MR. PRAISS: Okay. We'll --

23 MR. DIERKER: Okay.

24 MR. PRAISS: We'll read.

25 MR. DIERKER: Thank you very much, Chief.

MALEEHA AHMAD, et al v. CITY OF ST. LOUIS
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1 THE WITNESS: Thank you. Appreciate it.
2 MR. PRAISS: Have a great weekend.
3 THE WITNESS: Okay. And you, too. Thank
4 you --
5 MR. PRAISS: Okay.
6 THE WITNESS: -- all very much.
7 (Deposition adjourned at 11:17 a.m.)
8 (SIGNATURE RESERVED)

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MALEEHA AHMAD, et al v. CITY OF ST. LOUIS
Deposition of JAMES GOLDEN, JR. taken on 02/08/2019

1 STATE OF)
2) SS
3 COUNTY OF)
4

5 I, JAMES GOLDEN, JR., do hereby state that the
6 foregoing statements are true and correct to the best of
7 my knowledge and belief.
8
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11

JAMES GOLDEN, JR.

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14
15 Subscribed and sworn to before me this ____ day
16 of _____, 2019.
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20

NOTARY PUBLIC

21
22 My Commission Expires:
23
24
25

MALEEHA AHMAD, et al v. CITY OF ST. LOUIS
Deposition of JAMES GOLDEN, JR. taken on 02/08/2019

DEPOSITION CORRECTION SHEET
DEPOSITION OF JAMES GOLDEN, JR.

In Re: MALEEHA AHMAD, et al vs. CITY OF ST. LOUIS
No. 4:17-CV-2455 CDP

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MALEEHA AHMAD, et al v. CITY OF ST. LOUIS
Deposition of JAMES GOLDEN, JR. taken on 02/08/2019

C E R T I F I C A T E

I, Sara Alice Masuga, Certified Shorthand Reporter and Certified Court Reporter within and for the States of Illinois and Missouri, DO HEREBY CERTIFY that pursuant to agreement between counsel that on February 8, 2019, at the offices of the ACLU, 906 Olive Street, St. Louis, Missouri, there appeared before me the aforementioned witness, and having been duly sworn to tell the whole truth, was examined, and the examination was taken down in shorthand by me and afterwards transcribed upon the computer, and said transcription is herewith returned.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 10th day of February, 2019.

Sara Alice Masuga, CSR, CCR
IL CSR No. 084-002993
MO CCR No. 1012

MALEEHA AHMAD, et al v. CITY OF ST. LOUIS
Deposition of JAMES GOLDEN, JR. taken on 02/08/2019

MASUGA REPORTING SERVICE
2033 Hiawatha Avenue
St. Louis, MO 63143-1215
(314)680-2424

February 10, 2019

ACLU

Attn: Anthony E. Rothert, Esq.
906 Olive Street
Suite 1130
St. Louis, MO 63101

In Re: MALEEHA AHMAD, et al vs. CITY OF ST. LOUIS
No. 4:17-CV-2455 CDP

Dear Mr. Rothert:

Enclosed herewith, please find your copy of the deposition transcript of JAMES GOLDEN, JR. taken in the above-styled matter along with the original signature page of same.

Please have the deponent read your copy of the transcript, note any corrections to be made, sign the original signature page, have the deponent's signature notarized where indicated, and return the signed signature page and correction sheets to Mr. Dierker for proper filing of the original transcript with the Court.

Thank you for your attention to this matter.

Sincerely,

MASUGA REPORTING SERVICE

Sara Alice Masuga, CSR, CCR

cc: Mr. Dierker

MASUGA REPORTING SERVICE
314/680-2424